

1 Tim Nguyen
2 TROY LEE & ASSOCIATES
3 117 N. 3rd Street, Suite 201
4 Yakima, WA 98901

5 Attorney for Defendant
6 Jerrod Justin Hale

7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF WASHINGTON

9 UNITED STATES OF AMERICA,) 4:21-CR-6008-SMJ-3
10)
11 Plaintiff,) Memorandum in Support of
12) Motion to Re-Open Detention
13 vs.) Hearing and For Order of
14) Release
15 JERROD JUSTIN HALE,)
16) **WITH ORAL ARGUMENT**
17)
18 Defendant.) **December 15, 2021 at 1:30 p.m.**
19)
20)
21)
22)
23)
24)
25)
26)

27 TO: VANESSA R. WALDREF, UNITED STATES ATTORNEY
28 STEPHANIE VAN MARTER, ASSISTANT UNITED STATES ATTORNEY

29 The defendant, Jerrod Justin Hale, submits the following memorandum in support
30 of his motion to re-open the detention hearing in this matter and for an order of release:

31 **Background**

32 Mr. Hale is charged with Conspiracy and possession with intent to Distribute 400
33 grams or more of fentanyl and methamphetamine. Additionally, one count of felon in
34
35
36

1 possession of a firearm. He initially appeared before this court on March 4, 2021 and
2 entered a plea of not guilty to the charge. ECF No. 23. The Government sought detention
3 and counsel reserved his right to reopen detention. ECF Nos. 26 and 45. Probation
4 services interviewed Mr. Hale recently and after verifying all his information,
5 recommended that Mr. Hale not to be released and/or no combination or conditions can
6 assure reappearances/ ECF No 169. While in custody, Mr. Hale has not had any violations
7 and has undergone a substance abuse evaluation. Exhibit A. That evaluation determined
8 that Mr. Hale suffers from alcohol/drug dependencies and is recommending inpatient
9 treatment followed by outpatient treatment.
10
11

12 Mr. Hale has since entered a guilty plea and is awaiting sentencing. ECF 167.

13 Analysis

14 1. Motion to Re-Open Bail Hearing

15 Under 18 U.S.C. § 3142(f)(2) a detention hearing may be reopened “at any time
16 before trial,” based upon new information relevant to the issue of the court’s detention
17 order. In this case, the new information that justifies the Court’s consideration of
18 detention is that Mr. Hale has obtained a treatment evaluation while in custody (filed
19 separately) and probation services has verified and living arrangements upon if released.
20

21 2. Motion for Order of Release

22 Federal law favors release of a criminal defendant awaiting trial. "Only in rare
23
24
25
26

1 circumstances should release be denied." *United States v. Motamedi*, 767 F.2d 1403,
2 1405 (9th Cir. 1985). Any "[d]oubts regarding the propriety of release should be
3 resolved in favor of the defendant." *Id.*

4
5 The Bail Reform Act requires the court to impose the least restrictive conditions of
6 bail that can reasonably assure the defendant's appearance at trial and safety to the
7 community. The first preference under the Act is release on personal recognizance or
8 upon execution of an unsecured appearance bond. 18 U.S.C. § 3142(b). If these minimal
9 requirements are not sufficient, the court may then consider release pursuant to various
10 conditions. 18 U.S.C. § 3142(c). Again, the conditions imposed must be the least
11 restrictive possible. Only when faced with the limited set of circumstances set forth at 18
12 U.S.C. § 3142(f)(1)&(2) can a federal court order pretrial detention.

13
14 Mr. Hale is requesting his release into inpatient treatment and then on electronic
15 home monitoring while this case is pending. The plan is to release him directly into the
16 custody of the treatment provider. Counsel was informed that if the motion was granted, I
17 would be able to directly contact the treatment provider and that a bed would be made
18 available.

19
20 After inpatient, Mr. Hale is requesting to be placed on electronic home monitoring
21 at his sister's residence, which would allow him to complete and begin outpatient
22 treatment.

1 In this case, counsel believes they are a combination of conditions that would
2 assure reappearance as well as law abiding behavior. For example, Mr. Hale has been
3 evaluated by an accredited treatment facility in Washington State. That treatment facility
4 recommends that he go into inpatient treatment and then attend outpatient treatment while
5 this case is pending.
6

7 As the pretrial services report indicates, Mr. Hale will be able to stay at his sister's
8 home while this case is pending. He has no issues with being placed on home monitoring
9 or paying for the related charges. His sister, brother-in-law and their children will be
10 residing with him. Counsel was able to talk to his brother-in-law that has represented he
11 can get him employed and will be able to take him to court and other proceedings if
12 needed.
13

14 There will inevitably be concerns about Mr. Hale's criminal and warrant/failure to
15 appear history. Ultimately, Mr. Hale suffers from drug/alcohol addictions and that
16 addiction drastically affects his ability to function. If that condition is treated, combined
17 with a support system, Mr. Hale could succeed, will reappear and abide by any conditions
18 that this Court would set. Finally, Mr. Hale's family has represented that the household is
19 a clean and sober household, which would drastically aid in Mr. Hale's sobriety and
20 compliance.
21

22 WHEREFORE Mr. Hale respectfully request that this court re-open detention and
23

1 release him into inpatient treatment and then to home confinement while the case is
2 pending.

3
4 DATED this 7th day of December, 2021

5 Respectfully Submitted,

6 s/ Tim Nguyen

7 Attorney for Defendant, WSBA #50579

8 117 North 3rd Street, Suite 201

9 Yakima, WA 98901

10 Phone: (509) 452-6235

11 Fax: (509) 452-2518
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

CERTIFICATE OF SERVICE

I hereby certify that on December 7, 2021, I electronically filed Defendant's Memorandum in Support of Motion to Re-Open Bail Hearing and for Order of Release with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following: Stephanie Van Marter, Assistant United States Attorney.

s/ Tim Nguyen

Attorney for Defendant, WSBA #50579

117 North 3rd Street, Suite 201

Yakima, WA 98901

Phone: (509) 452-6235

Fax: (509) 452-2518